



# STATE OF INDIANA

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October 8, 2009

Ms. Deb Dial  
Indiana Protection and Advocacy Services  
4701 N Keystone Ave, Suite 222  
Indianapolis, IN 46205

*Re: Informal Inquiry 09-INF-27*

Dear Ms. Dial:

This is in response to your informal inquiry dated July 24, 2009. Pursuant to Ind. Code §5-14-4-10(5), I issue the following opinion in response to your inquiry regarding "Mr. Doe," who has been banned from a public library's property and, as a result, denied access to the public meetings held on library property. My opinion is based on applicable provisions of the Indiana Open Door Law ("ODL"), I.C. §5-14-1.5-1 *et seq.*

## BACKGROUND

As presented in your inquiry, the relevant facts are as follows. Mr. Doe is mentally disabled. Due to an incident at the library between Mr. Doe and another library patron, the library contacted the police and requested they issue a no trespass order against Mr. Doe. The no trespass order was issued by the police, but there was no hearing or judicial action involved. The order applies to Mr. Doe for the rest of his life.

You further state that it is common for public meetings to be held on library property. Usually, when Mr. Doe tries to attend public meetings held on library property, the police are called, he is escorted out, and his entrance onto library property is considered a violation of the no trespass order. To your knowledge, Mr. Doe has neither been asked to leave a public meeting nor received a no trespass order for his conduct at any public meeting. Your inquiry seeks advice regarding (1) Mr. Doe's rights are under the ODL; and (2) the responsibilities of the public agencies that hold their public meetings on library property.

## ANALYSIS

It is the intent of the ODL that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. I.C. § 5-14-1.5-1. Except as provided in section 6.1 of the ODL,

all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. I.C. § 5-14-1.5-3(a).

With respect to Mr. Doe's "rights" under the ODL, he enjoys the same rights to access public meetings as any other member of the public. You cite I.C. § 5-14-1.5-8(d), which requires public agencies to hold meetings at locations accessible to disabled individuals. However, nothing in the facts you have presented indicates that any public agency has held a meeting in a place that is not accessible to disabled individuals generally, or Mr. Doe in particular. Mr. Doe's access to meetings on library property stems not from his disability but from the library's no trespass order.

As far as public agencies' responsibilities with respect to holding public meetings on library property, nothing in the ODL compels a public agency to make *special* accommodations for Mr. Doe to attend that the agency would not make for any other mentally disabled individual. The ODL requires "all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them." I.C. § 5-14-1.5-3(a). Here, the public agencies' meetings at the library are open to the general public. In the absence of the library's no trespass order, nothing in the facts indicates that Mr. Doe would have any difficulty accessing any public meeting on the library's property. Therefore, it is my opinion that the public agencies are not violating the ODL by continuing to meet on library property despite the no trespass order on Mr. Doe.

Based on the information before me, it seems that Mr. Doe's ability to access public meetings on library property is hindered only by the no trespass order. Whether or not Mr. Doe has other grounds to challenge the legality of that order is outside of the Public Access Counselor's advisory authority. I.C. § 5-14-4-10(6). Therefore, I express no opinion on that issue.

If I can be of additional assistance, please do not hesitate to contact me.

Best regards,



Andrew J. Kossack  
Public Access Counselor

Cc: Gary Moody